

APPENDIX 7



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

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September 7, 2007

Mr. Mark Haley
President, Board of Governors
Virginia Nutrient Credit Exchange Association, Inc.
P.O. Box 51
Richmond, VA 23218-0051

RE: Exchange Compliance Plan, July 31, 2007

Dear Mr. Haley:

We have reviewed the Exchange's July 31, 2007 Compliance Plan and your letter of July 30, 2007 and are very pleased by the progress being made by the Exchange members. Especially encouraging are the projections that expected TN and TP loads will be below the aggregate wasteload allocations in all five basins by 2011.

After a careful review of all of the individual compliance plans and the Exchange's compliance plan, DEQ staff recommends that the existing 2011 compliance deadline be retained at this time for both parameters in all five basins. The Class A/Class B trading system adopted by the Exchange has served as an excellent tool for managing trades among its members. However, using only Class A pledges as the basis for determining a river basin compliance date appears inconsistent with the permit condition of achieving compliance "as soon as possible". In establishing "as soon as possible" compliance dates, DEQ must rely on the completion of projects that allow limits to be met and not delay the regulatory deadline due to a reluctance to sign Class A pledges.

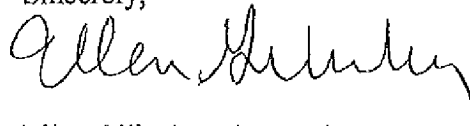
We share your concern with the completion of so many projects on such a tight timeline. However, at this early date it is not possible to determine how quickly individual construction projects will proceed and what the actual capabilities of the upgraded facilities will be. For instance, after a year of progress, the performance of Exchange members was significantly better than what was projected for these facilities in the April 2006 draft report. Future annual compliance plan updates and DEQ's semi-annual WQIP progress reports will add further clarity to these projections and will be used along with the scheduling factors in the Virginia Code and the "as soon as possible" criteria to evaluate the need for basin schedule extensions. Accordingly, we believe that The Exchange's proposed footnote for the watershed general permit compliance table is neither necessary nor does it provide the public or EPA with an

opportunity to participate in regulatory changes to the permit schedules. Should it prove necessary, DEQ will initiate amendment to the permit under the Administrative Process Act to make appropriate revisions to the schedule.

We also share your desire for DEQ to provide a safe regulatory environment for participating owners to commit to buy or sell credits. The very existence of the trading program represents a significant reduction in risk for the permittees. This risk is further reduced by the ability to purchase compliance credits from the WQIF. DEQ has proposed to incorporate into the WQIF cost-control guidelines a provision that credits generated via WQIF-funded upgrades would be made available to other permittees by the facility generating the credits. As suggested in your July 30th letter, we are also pursuing a means of sustaining a pool of WQIF-funded BMP projects that will serve as a source of WQIF credits in each basin.

We greatly appreciate the Exchange's efforts in encouraging and facilitating the cooperation of over 100 facilities to reduce nutrient loads to the Chesapeake Bay, and look forward to our continued working relationship with your organization.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ellen Gilinsky".

Ellen Gilinsky, Ph.D., Director
Division of Water Quality



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April 25, 2008

Mr. Mark A. Haley, President
Virginia Nutrient Credit Exchange Association, Inc.
P.O. Box 51
Richmond, VA 23218-0051

Re: Exchange Compliance Plan 2008 Annual Update

Dear Mr. Haley: *Mark*

We have reviewed the Exchange's February 1, 2008 Compliance Plan Update and DEQ gives its approval for implementation of the plan under the watershed general permit. We are very pleased by the progress being made by the organization and its members. The growth in membership has been impressive and we expect that participation will continue to grow as the January 1, 2011 deadline approaches and more facilities recognize the benefits of membership.

Equally impressive is the reduction in load made in some basins as more and more facilities optimize their operations. The Exchange members managed to operate below their combined TN wasteload allocations in the Potomac and Rappahannock Basins and below their combined TP wasteload allocations in the York and (Lower) James Basins; however we must recognize 2007 was a dry year.

We will continue to monitor and evaluate progress in each basin as noted in my September 7, 2007 letter and Section 7.1 of the annual update. Between the annual compliance plan updates, the WQIF annual reports and the annual load reports we are confident that we will stay on top of this issue and be able to make any schedule adjustments necessary. Also as noted in my September 7, 2007 letter, the conditions in Section 7.2 on the compliance plan do not dictate the terms of DEQ's enforcement policy. However, please rest assured that DEQ too has much invested in the watershed general permit and intends to work cooperatively with all stakeholders to ensure a fair and successful program.

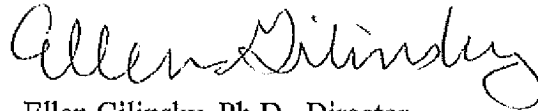
With respect to the Eastern Shore Basin, we share your concern that the basin is not large enough to provide ample trading partners. As you know a legislative change would be required to open up the Eastern Shore market to include purchases from the Potomac and Rappahannock Basins.

Mr. Mark A. Haley
April 25, 2007
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We have noted in recent weeks that as WQIF agreements and VPDES permits are negotiated, a few facilities have backed off of the upgrade plans provided to the Exchange. So far none of these changes appear to affect the basin compliance goals. We intend to track these discrepancies to ensure that they do not have an adverse impact on basin compliance as a whole and will continue to instruct such facilities to keep the Exchange informed of any changes in their plans.

In closing, we continue to be encouraged by the progress in the trading program and by the cooperation and efforts of the Exchange and its members in particular. We look forward to another year of this partnership and progress towards a restored Chesapeake Bay.

Sincerely,

A handwritten signature in cursive script, reading "Ellen Gilinsky".

Ellen Gilinsky, Ph.D., Director
Division of Water Quality

Cc: Mr. Chris Pomeroy, Esq. - AquaLaw



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September 24, 2009

Mr. Mark A. Haley, President
Virginia Nutrient Credit Exchange Association, Inc.
P.O. Box 51
Richmond, VA 23218-0051

Re: Exchange Compliance Plan 2009 Annual Update

Dear Mr. Haley:

We have reviewed the Exchange's February 1, 2009 Compliance Plan Update and DEQ gives its approval for implementation of the plan under the watershed general permit. We remain very pleased by the progress being made by the organization and its members. Point source Total Nitrogen and Total Phosphorus delivered loads decreased in each of the five permitted watersheds in 2008.

We share your concern with the lack of trading partners on the Eastern Shore and look forward to working with the Exchange in the next year to address this issue. Finally, our staff has had some discussions with you concerning a few survey responses that appear to be out of date by the time they are compiled and submitted. A few such situations may be inevitable as many facilities have struggled with upgrade decisions in the middle of the economic downturn. We are currently reviewing WQIF records to provide you with a list of apparent discrepancies for use in reviewing the next round of survey responses.

We look forward to another year of partnering with the Exchange and its members in pursuit of a restored Chesapeake Bay.

Sincerely,

A handwritten signature in cursive script, reading "Frederick K. Cunningham".

Frederick K. Cunningham

Water Permit Manager

Office of Water Permits and Compliance Assistance

Cc: Mr. Chris Pomeroy, Esq. - AquaLaw



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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

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November 2, 2010

Mr. Mark A. Haley, President
Virginia Nutrient Credit Exchange Association, Inc.
P.O. Box 51
Richmond, VA 23218-0051

Re: Exchange Compliance Plan 2010 Annual Update

Dear Mr. Haley:

We have reviewed the Exchange's February 1, 2010 Compliance Plan Update and DEQ gives its approval for implementation of the plan under the watershed general permit. With numerous upgrades now close to completion, we look forward to compliance with the Total Nitrogen and Total Phosphorus wasteload allocations in 2011. DEQ will be distributing final Discharge Monitoring Reports to all registered facilities early next year. The Exchange and its members are to be congratulated for all the hard work that has made meeting this aggressive deadline possible.

We look forward to another year of partnering with the Exchange and its members in pursuit of a restored Chesapeake Bay.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frederick K. Cunningham".

Frederick K. Cunningham
Water Permit Manager
Office of Water Permits and Compliance Assistance

cc: Mr. Chris Pomeroy, Esq. - AquaLaw